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SEP 19 2012

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

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ALEXANDRIA DIVISION

LAKDAT DAVE TIRBANY,
Petitioner

CIVIL ACTION
1:12-cv-00637

VERSUS

ERIC H. HOLDER, JR., et al.,
Respondents

JUDGE DEE D. DRELL
MAGISTRATE JUDGE JAMES D. KIRK

REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE

Before the court is a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 by petitioner Lakdath¹ Dave Tirbany ("Tirbany") on March 7, 2012. Tirbany, a native and citizen of Trinidad, Sanfanado and a lawful permanent resident of the United States, contests his continued detention since June 15, 2009, by the Bureau of Customs and Immigration Enforcement ("ICE") pending his removal from the United States. At the time of filing his petition, Tirbany was being detained in the LaSalle Detention Facility in Trout, Louisiana. The sole relief requested by Tirbany is release from custody pending his removal, pursuant to Zadvydas v. Davis, 533 U.S. 678, 121 S.Ct. 2491 (2001).

The Respondents filed a motion to dismiss Tirbany's petition, contending it is moot because he has been removed from the United

¹ It is noted that Tirbany signs his first name with an "h" at the end (See Doc. 1).

States (Doc. 13). The Respondents show through an affidavit by Brian Gueringer, the Acting Deputy Field Office Director of the ICE facility at Oakdale, Louisiana, and supporting documents that Tirbany was removed from the United States on April 19, 2012 (Doc. 13, Ex. A).

Since Tirbany has been released and thus has achieved the sole relief requested in his habeas petition, Tirbany's habeas petition has been rendered moot.²

Conclusion

Based on the foregoing discussion, IT IS RECOMMENDED that the Respondents' motion to dismiss (Doc. 13) be GRANTED and Tirbany's habeas petition be DISMISSED AS MOOT.

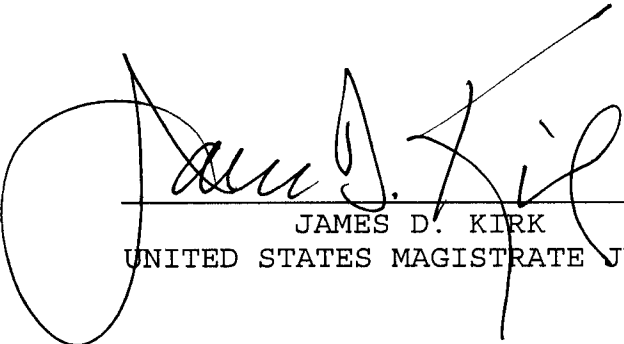
Under the provisions of 28 U.S.C. § 636(b)(1)(c) and Fed.R.Civ.P. 72(b), the parties have **fourteen (14) days** from

² It is further noted a notice from this court mailed to Tirbany on August 22, 2012 (Doc. 14), was returned to the Clerk of Court on August 31, 2012, stamped "Returned to Sender. No Longer Here" (Doc. 16). Obviously, after Tirbany was removed from the United States on April 19, 2012, he failed to provide the court with his new address. Local rule LR41.3W provides that the failure of a pro se litigant to keep the Court apprised of an address change may be considered cause for dismissal for failure to prosecute when a notice is returned to the Court for the reason of an incorrect address and correction is not made to the address for a period of 30 days. Tirbany's failure to inform the court of his address change within 30 days provides another ground for dismissal of his habeas petition, for failure to prosecute pursuant to LR41.3W and Rule 41(b) of the Federal Rules of Civil Procedure as interpreted by the Court and under the Court's inherent power to control its own docket. Link v. Wabash Railroad Co., 370 U.S. 626, 82 S.Ct. 1386 (1962); Rogers v. Kroger Co., 669 F.2d 317, 320-21 (5th Cir. 1982).

service of this Report and Recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within **fourteen (14) days** after being served with a copy thereof. A courtesy copy of any objection or response or request for extension of time shall be furnished to the District Judge at the time of filing. Timely objections will be considered by the district judge before he makes a final ruling.

A PARTY'S FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS, CONCLUSIONS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN FOURTEEN (14) CALENDAR DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY, EXCEPT ON GROUNDS OF PLAIN ERROR, FROM ATTACKING ON APPEAL THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT JUDGE.

THUS DONE AND SIGNED at Alexandria, Louisiana, on this 19th
day of September 2012.



JAMES D. KIRK
UNITED STATES MAGISTRATE JUDGE